THE
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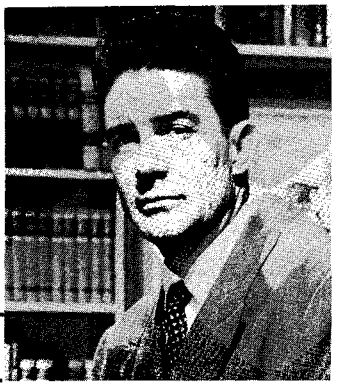

DAN SMOOT

CIVIL RIGHTS

On February 28, 1963, President Kennedy asked Congress for strong civil rights legislation to eliminate racial discrimination in the United States. Kennedy was politically committed to such legislation; and his proposal seemed perfunctory; but, on June 19, 1963, he sent Congress another special message on civil rights, enlarging his earlier proposals, expressing urgency, demanding that Congress stay in session until it enacted the requested legislation.

The President's June 19 message was bewildering to astute observers, for two specific reasons:

(1) The Kennedy legislative program was already stalled in Congress. The broadened civil rights proposals, presented as a program to take precedence over everything else, must surely create hot controversy and further complicate legislative problems.

(2) By June, 1963, militant negro-agitation organizations (encouraged by the strident voices of extremist liberals generally) had already stirred the caldrons of hate until racial disorders were troubling the whole nation, erupting into violence in many places. The President's June 19 message (though asking for restraint) could only make matters worse: the message clearly implied that negroes in the United States are badly abused, and that lawless violence is reasonable, if not desirable, until and unless Congress authorizes the total program demanded by the most extreme "civil rights" advocates.

In short, the President's June 19, 1963, civil rights message was comparable to a wrecking bar thrown into the legislative machinery of Congress — like gasoline poured on the fires of racial tensions. The public does not *know* why it was done. The shrewdest guess is that administration leaders, realizing that the New Frontier was already headed for political disaster because of dismal failures of its domestic and foreign programs, were taking a bold political risk. The New Frontier could never win the support of conservatives. It had already lost, or was rapidly losing, the support of "moderates." Hence, the urgent civil rights message of June 19 was an open renunciation of these groups and a bid for unrestrained support from ultra-liberal racial-agitation groups.

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Evidence to support this theory about the purpose of the sudden civil rights proposal of June 19, 1963, may be found in a remark by United States Representative Adam Clayton Powell (Democrat, New York). Powell (who has been associated with many communist front organizations; who has been criminally indicted for income tax frauds; and whose tours of foreign nightclubs with his "secretaries" have scandalized the nation) appears to be striving for the role of over-all leader and spokesman of the major negro-agitation groups. The Congress of Racial Equality (CORE) and the National Association for the Advancement of Colored People (NAACP) are both infiltrated, at the top, with communist fronters.[1]. Directorates of the two organizations are interlocked (officials of one organization being officials of the other); and they are interlocked with the directorate of the Southern Christian Leadership Conference — the agitation group of Martin Luther King, who also has a record of pro-communist activities. The Student Non-Violent Coordinating Committee is perhaps the most violent of all the large national organizations active in racial agitation. Adam Clayton Powell (whose hatred for white men has been openly expressed and broadcast to the nation) seems to be bringing the policies of all these negro racial agitation groups into line with the policies of the black muslims — a group which advocates black supremacy and violence against whites.

Adam Clayton Powell boasts that he helped write President Kennedy's civil rights message of June 19, 1963. Speaking in Long Beach, California, on June 21, 1963, Powell said:

"The President had no intention of including many of the points that he did in his message. I re-wrote half of his speech for him the night before it was delivered before Congress."[2]

The Civil Rights Bill which the President recommended on June 19 was introduced in the Senate on the same day by Senate Majority Leader Mike Mansfield (Democrat, Montana): S 1731. U. S. Representative Emanual Celler (Democrat, New York), Chairman of the House Judiciary Committee, introduced the companion version in the House (HR 7152) on June 20, 1963.

On October 2, 1963, House Judiciary Subcommittee No. 5 reported a "strengthened" version of HR 7152. Five days after the assassination of President Kennedy, President Johnson (November 27, 1963) urged Congress to pass the Civil Rights Bill as a tribute to the late President. In his State of the Union Message (January 8, 1964), President Johnson again urged Congress to give priority to the Kennedy Civil Rights Bill. On January 30, 1964, the House Rules Committee voted (11 to 4) to report HR 7152 to the House for floor debate and action.

The Bill

The ostensible purpose of the pending Civil Rights Bill is to outlaw all forms of racial discrimination in the United States, but *discrimination* is not defined. The Bill is nothing less than a demand for concentration of absolute power in the executive agencies of the federal government (primarily in the hands of the Attorney General) — to use the armed might, the courts, and the total tax resources of the nation for enforcement of whatever action officialdom may deem necessary to "eliminate discrimination." Because of space limitation, I limit my remarks to the most dangerous features of the Bill.[3]

VOTING — The Civil Rights Bill in its present form would eliminate state literacy qualifications for voting (not just in federal elections but in *all* elections, including primaries), by providing that alleged completion of the sixth grade must be taken as presumption of literacy — whether or not the voter applicant can actually read and write. The Bill would empower courts to appoint federal referees to supervise *all* elections in any area where less than 15% of voting-age negroes are registered to vote — regardless of the known fact that the low registration rate of negroes (and of whites as well) in all areas of the nation results not from any attempts to *keep* them from registering, but from their own apathy and ignorance about voting. In all elections, in practically all parts of the

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nation, about as many whites as negroes habitually refuse to register and vote.

The Civil Rights Bill would authorize the appointment of federal referees to supervise elections in any area where even one colored person makes a formal complaint that he has been denied the right to vote.

The Civil Rights Bill neither expresses concern about, nor makes provisions for, non-voting whites. This fact alone proves that the Bill, touted as an anti-discrimination measure, is discriminatory legislation, designed not to serve the national interest but to attract political support from a specified racial group.

The worst feature of voting provisions in the Civil Rights Bill, however, is the destructive effect on our constitutional system. One of the most important powers of state government is that of setting voter qualifications. No subject was more thoroughly debated during the Constitutional Convention of 1787.[4]

When an illiterate, shiftless, propertyless, irresponsible individual (of any race) has as much voice in selecting political officials and in influencing legislation as an industrious, thrifty, productive individual, what is to prevent the dregs and drones of society from plundering hard-working and productive citizens? Politicians can fan hatred in low-income groups for middle and upper-income groups, telling the "masses" they are poor because they are oppressed; making them believe that everyone who has something somehow acquired it by evil means; promising to soak the well-to-do with taxes for "benefits" to the poor in order to redistribute wealth and guarantee that everyone has his "fair share."

The Founding Fathers were aware of this danger in "democracy." They had studied the record of how it had destroyed ancient civilizations — just as anyone today can see how a similar situation creates poverty, wild disorder, and tyranny in many Latin American nations where unscrupulous politicians go into squatters' slums, buying votes with promises to pull down the high and mighty and to provide free and easy living for the masses.

The Founding Fathers wanted a constitutional system in which *all* — high and low — would be equal before the law; all equally free to lead their own kind of life, as long as they did not infringe on the rights of others; all enjoying the same guarantees against tyrannical oppression by their own government. But the Founding Fathers felt that the *vote* — which, in final analysis, is the power to set the policies and direct the affairs of the nation — should be restricted to mature individuals who could understand, and have some vested interest in, the necessity of maintaining a constitutional system of government.[4]

Hence, there was demand in the Constitutional Convention of 1787 that the right to vote be somehow restricted to responsible citizens. There were proposals that the federal government be assigned the role of establishing voter qualifications throughout the union. All such proposals were based on the fear that individual states might grant the voting right to people not qualified to exercise it.[4]

The proposals were defeated, however, because of a greater fear that pervaded the thinking of the Founding Fathers: fear of creating a federal government so strong that it could destroy state governments and eliminate God-given rights of individuals. Admitting the *need* for voter qualifications which would keep the power of the ballot out of the hands of irresponsible people, the Founding Fathers felt there was a greater need to leave this basic attribute of sovereignty in the individual states. They rejected all proposals for constitutional provisions which would give the federal government *any* authority in this field.

One of the basic rights which the Constitution clearly reserved to the states or to the people thereof is the right of establishing rules and regulations to determine who can vote.[4] Hence, *any* proposal for federal intervention in elections violates the intent, the spirit, and the provisions of the Constitution.

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PREFERENTIAL LEGAL TREATMENT — In the American (or any other civilized) system of jurisprudence, a person who thinks he is abused or his rights infringed, must *initiate* action when seeking relief through the courts of the land. At present, suits by negroes seeking admission to white facilities or seeking elimination of segregated facilities are generally *not* initiated by the negro individuals whose rights are allegedly abused, but are initiated in their behalf by racial-agitation organizations. But, at any rate, the government itself is not permitted to initiate suits on behalf of some individuals against other individuals, or against private organizations or against state institutions. The Civil Rights Bill would, on the contrary, authorize the Attorney General of the United States to initiate legal action, in behalf of colored persons. The United States Government would use tax money to bear the legal cost for the colored persons. The persons or organizations against whom the government initiated the action would bear their own legal expenses.

In any system of law founded on principles of freedom, all persons involved in litigation are considered equal before the courts and in the law, and all kinds of litigation are supposed to be of equal importance. The pending Civil Rights Bill would require preferential treatment in federal courts for litigation in behalf of negroes claiming violations of their constitutional rights.

THE TAX MONEY CLUB — The Civil Rights Bill would provide special federal aid to school districts in the process of desegregation; but that is of minor consequence, in comparison with other provisions which would enable federal officials to use the tax resources and the power of the whole nation to enforce, upon private organizations and state institutions, attitudes and behavior prescribed by federal officialdom.

The Bill would enable (if not require) federal agencies to withhold contracts (or cancel existing contracts) with any firm doing business with the government, if the firm does not hire as many negroes as federal officials think it should — or does not give negroes the kinds of jobs federal officials think they should have. The Bill would make prime contractors supervisors of, and responsible for, employment practices of sub-contractors. Federal agencies could cancel contracts of prime contractors if any of their sub-contractors had employment practices displeasing to federal officials.

The Civil Rights Bill would authorize (if not require) federal agencies to withhold grants of tax money to state and local agencies (private or otherwise) for any program (schools, colleges, hospitals, housing, roads, urban renewal — *any kind* of program) if federal officials determine that any kind of "racial discrimination" is involved in the program.

The public does not even dimly realize how far the "financial" provisions of the Civil Rights Bill would reach. They would reach out to every bank and lending institution which participates in FHA or any other federal home loan program, which participates in the Federal Reserve System, or even in programs of the Federal Deposit Insurance Corporation.

If the Civil Rights Bill is enacted in its present form, federal officials can lay a heavy hand upon practically every citizen who builds, buys, sells, or rents a home — prescribing conditions under which he may obtain funds to acquire a home, making rules for use of the property after he acquires it. Banks can be forced to implement the edicts of the federal bureaucrats — through foreclosures, refusal of loans, blacklisting, evictions.

PUBLIC ACCOMMODATIONS — The Equal Accommodations in Public Facilities section of the pending Civil Rights Bill is most dangerous of all. Here is the essence of that section, in the language of the late President:

"I am today proposing, as part of the Civil Rights Act of 1963, a provision to guarantee all citizens equal access to the services and facilities of hotels, restaurants, places of amusement, and retail establishments . . . . The proposal could give the persons aggrieved the right to obtain a court order against the offending establishment or persons.

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"Upon receiving a complaint in a case sufficiently important to warrant his conclusion that a suit would materially further the purposes of the act, the Attorney General (if he finds that the aggrieved party is unable to undertake or otherwise arrange for a suit on his own, for lack of financial means or effective representation, or for fear of economic or other injury) will first refer the case for voluntary settlement to the community relations service . . . give the establishment involved time to correct its practices, permit state and local equal access laws (if any) to operate first, and then, and only then, initiate a suit for compliance."[5]

The President was not clear about the authority for such legislation. He hinted that the Interstate Commerce clause of the Constitution gives the federal government authority to eliminate the right of a private businessman to select his own customers. At another point, the President suggested that the Fourteenth Amendment may provide the constitutional authority. But here is the President's key sentence concerning the "authority" for federal officialdom to eliminate the private property rights of businessmen:

"The argument that such measures constitute an unconstitutional interference with property rights has consistently been rejected by the courts in upholding laws . . . designed to make certain that the use of private property is consistent with the public interest."[5]

In other words, an American citizen has no right to own and use private property, unless he uses it in a way that officialdom considers to be consistent with the public interest.

Today, the demands of racial-agitation groups fix official notions of what is consistent with the public interest. Tomorrow, it could be something else. Under authority of the Civil Rights Bill, federal officials could order private employers to hire, or not hire, Catholics, Jews, Presbyterians, Methodists, Mormons, Christian Scientists, atheists, black muslims, Buddhists: federal officials could compel private businessmen to do anything officialdom wants, on the simple pretext of requiring the use of private property in a way that is "consistent with the public interest."

The Greatest Grasp For Power

Here are extracts of the "dissenting views" of five United States Representatives[6] who are members of the House Committee on the Judiciary and who consider the Civil Rights Bill "the greatest grasp for executive power" in this century:

"The President of the United States and his appointees . . . would be granted the power to seriously impair the following civil rights of those who fall within the scope of the various titles of this bill:

"1. The right of freedom of speech and freedom of the press . . . . (secs. 202-203).

"2. The right of homeowners to rent, lease, or sell their homes as free individuals (secs. 601-602).

"3. The right of realtors and developers of residential property to act as free agents (secs. 601-602).

"4. The right of banks, savings and loan associations and other financial institutions to make loans and extend credits in accordance with their best judgment (secs. 601-602).

"5. The right of employers 'to hire or discharge any individual' and to determine 'his compensation, terms, conditions, or privileges of employment' (title VII).

"6. The seniority rights of employees in corporate and other employment (title VII, title VI via sec. 711 (b)).

"7. The seniority rights of all persons under the Federal civil service (sec. 711 (a)).

"8. The seniority rights of labor union members within their locals and in their apprenticeship programs (title II, title VI via sec. 711 (b)).

"9. The right of labor unions to choose their members, to determine the rights accorded to their members, and to determine the relationship of their members to each other (title VII, title VI via sec. 711 (b)).

"10. The right of farmers to freely choose their tenants and employees (title VI and title VII).

"11. The right of farm organizations to choose their members, to determine the rights accorded

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to their members, and the relationship of their members to each other (title VI and title VII).

"12. The right of boards of trustees of public and private schools and colleges to determine the handling of students and teaching staffs (title IV, title VI, title VII).

"13. The right of owners of inns, hotels, motels, restaurants, cafeterias, lunchrooms, soda fountains, motion picture houses, theaters, concert halls, sports arenas, stadiums and other places of entertainment to freely carry on their businesses in the service of their customers (title II, title VI, and title VII).

"14. The right of the States to determine the qualifications of voters in all Federal elections and many State elections (title I).

"15. The right of litigants to receive even-handed justice in the Federal courts; this legislation places civil rights litigants . . . in a special category with preferences and advantages not afforded parties in any other form of litigation (sec. 101 (d), title IX) . . . .

"The depth, the revolutionary meaning of this act, is almost beyond description . . . . It has open-end provisions that give it whatever depth and intensity one desires to read into it. In the language of the bill, 'The President is authorized to take such action as may be appropriate to prevent . . . ' (sec. 711 (b)), and 'Each Federal department and agency . . . shall take action to effectuate . . . ' (sec. 602). This vests, of course, almost unlimited authority by the President and his appointees to do whatever they desire.

"It is, in the most literal sense, revolutionary, destructive of the very essence of life as it has been lived in this country since the adoption of our Constitution . . . .

"FARMERS . . . . If this bill is enacted the farmer (regardless of the number of his employees) . . . . will no longer be allowed to exercise his independent judgment. Under the power conferred by this bill, *he may be forced to hire according to race,* to 'racially balance' those who work for him *in every job classification* or be in violation of Federal Law . . . .

"HOMEOWNERS . The right of homeowners in the United States to freely build, occupy, rent, lease, and sell their homes will be destroyed by this bill . . . .

"Federal personnel (*not* the homeowner or his wife) will make decisions as to the personnel building the home, the renting of a single room or several rooms, as well as the rental, leasing, or sale of the home whenever race, color, or national origin is concerned. Federal personnel will also dictate the actions of realtors, developers, attorneys, and the lending institutions . . . . If this bill is passed, it will . . . . give the President carte blanche to subject every homeowner to Federal control.

"BANKS AND BANKERS . . . . If a bank under this bill were to deny employment, a loan, a line of credit or a sales contract to a person, it would have to prove its decision was based on facts that did not, in any way, discriminate against the rejected applicant because of his race . . . . If a small businessman . . . has been held in violation of the Federal civil rights law, under the provisions of this bill *the bank can be required to cease doing business with the culprit* . . . .

"LABOR UNIONS AND MEMBERS . . . . *The provisions of this act grant the power to destroy union seniority* . . . . Neither competence nor experience is the key for employment under this bill. Race is the principal, first, criterion . . . .

"Moreover, this bill affects unions from the other end, that of the employer . . . .

"By threat of contract cancellation and blacklisting, contractors could be forced to actively recruit employees of a specified race and upgrade them into skilled classifications, although this would displace union members in the skilled trades . . . .

"THE PRESS . . . . If a person stands in a public square or before a civic club and advocates that segregation is best for either race and urges that it be maintained — and his stand is editorially supported by a newspaper — *both* would be in violation of Federal law and *both would be subject to fine and imprisonment* (sec. 202, 203 (a) (e)), if they continue to exercise freedom of speech and of the press . . . .

"TEACHERS AND SCHOOLS — PUBLIC AND PRIVATE . . . . Under provisions of this bill, the President and his appointees in Federal agencies would have the right to dictate pupil assignments in local schools and to approve the faculties (secs. 601, 602, 711 (b), title IV) . . . ."

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What To Do

All members of the national Congress should receive letters from *millions* of Americans demanding rejection of all civil rights legislation.

For more detailed information on the critical "race situation" in the United States, see recent issues of this *Report,* "Washington: The Model City," June 24, 1963; "The American Tragedy," July 8, 1963; "More Equal Than Equal," July 15, 1963. Reprints are available: the set of 3 for 50¢.

FOOTNOTES

(1) "Activities in the Southern States," speech by U. S. Senator James O. Eastland (D., Miss.), containing official records from the House Committee on Un-American Activities and Senate Internal Security Subcommittee, *Congressional Record* (daily), May 25, 1961, pp. 8349-63; "Subversive Character of NAACP," by U. S. Representative E. C. Gathings (D., Ark.) containing communist front records of 59 officials of the NAACP as compiled by the House Committee on Un-American Activities, *Congressional Record* (daily), July 29, 1963, pp. A4785-815

(2) UPI dispatch from Long Beach, California, *The Dallas Times Herald,* June 23, 1963, p. 17A

(3) Text of S 1731, *Congressional Record* (daily), July 19, 1963, pp. 10454-9

(4) "Debates in the Federal Convention of 1787 as Reported by James Madison," *Documents Illustrative Of The Formation Of The Union Of The American States,* published as House Document No. 398, 69th Congress, Government Printing Office, 1927

(5) AP dispatch from Washington, *The Dallas Times Herald,* June 19, 1963, pp. 23-4B

(6) The dissenting views of U. S. Representatives Edwin E. Willis (D., La.), Robert T. Ashmore (D., S.C.), John Dowdy (D., Tex.), E. L. Forrester (D., Ga.), William M. Tuck (D., Va.), and Basil L. Whitener (D, N.C.), were published in a pamphlet entitled *Unmasking The Civil Rights Bill,* published by the Coordinating Committee for Fundamental American Freedoms, Suite 520, 301 First Street, N.E., Washington, D. C. 20003.

WHO IS DAN SMOOT?

Born in Missouri, reared in Texas, Dan Smoot went to SMU in Dallas, getting BA and MA degrees in 1938 and 1940. In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for a doctorate in American Civilization.

In 1942, he left Harvard and joined the FBI. As an FBI Agent, he worked for three and a half years on communist investigations in the industrial Midwest; two years on FBI headquarters staff in Washington; and almost four years on general FBI cases in various parts of the nation.

In 1951, Smoot resigned from the FBI and helped start Facts Forum. On Facts Forum radio and television programs, Smoot spoke to a national audience, giving *both* sides of controversial issues.

In July, 1955, he resigned and started his present independent publishing and broadcasting business — a free-enterprise operation financed entirely by profits from sales: sales of *The Dan Smoot Report,* a weekly magazine; and sales of a weekly news-analysis broadcast, to business firms, for use on radio and television as an advertising vehicle. The *Report* and the broadcast give only *one* side in presenting documented truth about important issues — the side that uses the American Constitution as a yardstick. The *Report* is available by subscription; and the broadcasts are available for commercial sponsorship, anywhere in the United States.

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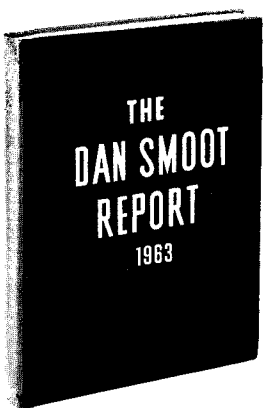

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